

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

FRANCISCO VEGA, JR.,

Plaintiff,

v.

M. SOTO, et al.,

Defendants.

1:22-cv-000471-JLT-EPG (PC)

ORDER REGARDING RETURNED  
SUBPOENA DOCUMENTS

Plaintiff Francisco Vega, Jr., is a state prisoner proceeding *pro se* in this civil rights action. This case proceeds on Plaintiff's First Amendment retaliation claims against Defendants Soto, Noujaime, and Borba. (ECF No. 15). This matter is before the Court on Plaintiff's returned subpoena documents.

On January 25, 2024, the Court issued an order permitting Plaintiff to fill out and return for service by the United States Marshals Service a subpoena duces tecum form (AO 88B and also the form for Marshal service USM-285) to Valley State Prison (VSP) to learn the address for Billy Moore, a former VSP employee that Plaintiff seeks to depose. (ECF No. 76). On February 14, 2024, the Court issued a follow-up order after Plaintiff incorrectly filled out the subpoena documents for Moore. (ECF No. 80). The Court sent Plaintiff new subpoena documents (AO 88B and USM-285) and extended the non-expert discovery deadline to April 15, 2024, for purposes of deposing Moore, and gave Plaintiff thirty days to complete and return the necessary subpoena documents for ascertaining Moore's address. (ECF No. 80).

1 Although Plaintiff has now returned the subpoena documents, he has used the wrong  
2 subpoena form. Plaintiff has returned form AO 88A, which is used to compel testimony at a  
3 deposition. As noted in the Court's recent orders, AO 88A is to be used for those witnesses that  
4 Plaintiff seeks to compel to attend an oral deposition. (ECF Nos. 80, 84). Because Billy Moore's  
5 address is unknown, Plaintiff needs to fill out *AO 88B*, which compels information and not  
6 attendance at a deposition. In this instance, Plaintiff will be seeking to compel Moore's location  
7 by using AO 88B, not AO 88A.

8 Accordingly, IT IS ORDERED as follows:

- 9 1. The Clerk of Court is directed to (1) file on the docket the subpoena documents that  
10 Plaintiff returned; and (2) send Plaintiff a copy of form AO 88B and a copy of form USM-  
11 285.
- 12 2. These documents are to be used to gain documents or information from VSP to identify  
13 the location of Billy Moore.
- 14 3. Plaintiff **shall not** use AO 88A again to try to subpoena Moore's location.
- 15 4. Plaintiff has twenty-one days from the date of service of this order to complete and return  
16 form *AO 88B* and form USM-285.

17 IT IS SO ORDERED.

18 Dated: March 4, 2024

19 /s/ Eric P. Shoup  
20 UNITED STATES MAGISTRATE JUDGE  
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